

Notice of Allowability

Application No.

10/066,368

Examiner

Talivaldis Ivars Smits

Applicant(s)

SEILER ET AL.

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Remarks, filed 12.17/2007.
2. ☒ The allowed claim(s) is/are 1-4,6-10,13-19,22,23,34-36 and 38-40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Response to Amendment

1. In response to the Office Action, mailed 9/17/2007, applicant has submitted an Amendment, filed 12/17/2007, amending claims 15-19, 22-34, and 36, cancelling claims 24-28, 31-32, and 37, adding new claim 40, and arguing to traverse the claim rejections.

Response to Arguments

2. Applicant's arguments, see Amendment, filed 12/17/2007, with respect to the rejection of claims 1-4, 15-19, 22-23, 34 (erroneously mislabeled 35), and 36-39 have been fully considered and are persuasive. Their rejections under 35 USC 101 have been withdrawn.

3. Applicant correctly points out (Remarks, p. 7) that the role of claims 34 and 35 was inadvertently interchanged in the previous Office Action, and that claim 34 was intended to be rejected while supposedly rejected claim 35 was allowed.

4. While the examiner disagrees with applicant's assertion that apparatus claim 1 (and thus its dependent claims) are "directed to a machine", upon further consideration he agrees that "claim 1 has a practical application or use: namely, 'determining a language for a user' " (Remarks, p. 8), and so has given patentable weight to the

preamble of claim 1, thus withdrawing the rejections of claim 1 and its dependent claims 2-4, 34, and 38-39 under 35 USC 101.

5. Applicant's amendment of claims 15-19, 22-23 and 36 to indicate that they are directed to a functional computer program has led to the withdrawal of their rejection under 35 USC 101. New claim 40 is also statutory for this reason.

Allowable Subject Matter

6. Claims 1-4, 6-10, 13-19, 22-23, 34-36, and 38-40 are allowed. The following is an examiner's statement of reasons for allowance: Since the rejections under 35 USC 101 of said claims have been herein withdrawn, and their art rejections were already successfully traversed by applicant's arguments in the Remarks filed 7/12/2007, no new prior art having been found, said claims are herein allowed.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Talivaldis Ivars Smits whose telephone number is 571-

Application/Control Number:
10/066,368
Art Unit: 2626

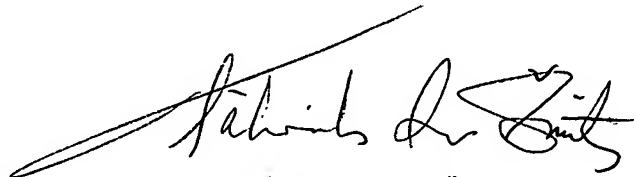
Page 4

272-7628. The examiner can normally be reached on 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

1/10/2008



TĀLIVALDIS NARS ŠMITS
PRIMARY EXAMINER